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Testimony in Support of Senate Bill No. 426, An Act Concerning Employee Online Privacy

Good afternoon Senator Winfield, Representative Tercyak and distinguished members of the Labor and Public Employee Committee. My name is David McGuire. I am the Staff Attorney at the American Civil Liberties Union of Connecticut (ACLU-CT) and I'm here to testify in support of Senate Bill No. 426, An Act Concerning Employee Online Privacy.

A growing number of Connecticut employers are demanding job applicants and employees hand over the passwords to their personal email and social networking accounts. For example, our office has been contacted by a person applying for a public safety job in Connecticut. The applicant was told that he would be denied employment if he did not give his social media password.

Employer access to password protected "personal online accounts", including email and social media accounts, overrides the privacy protections users have erected and therefore violates their reasonable expectations of privacy in these communications. This bill would protect current and prospective employees' privacy rights in their personal online accounts by prohibiting employers from requesting user names and passwords.

Many other states have recognized that allowing bosses or potential employers' access to employee's personal email and social media accounts violates privacy and constitutes poor public policy. To date, 17 states have enacted similar social media privacy legislation.¹ So far this year, similar legislation has been introduced in 14 states including New York.²

Emails and social media websites are the modern day equivalent of mail boxes. Employers are not permitted to search through an individual's personal postal mail and accordingly they should not be able to rifle through protected electronic correspondences. This is not just about whether the applicant thought that dress was blue, white or gold or some other public posting. Employers are trying access deeply personal messages between applicants and their friends, families and loved ones.

Allowing employers' to demand access to password protected online-accounts has a chilling effect on employees' free speech rights. Employers' ability to access electronic password-protected material may violate

¹ Louisiana, Maine, New Hampshire, Oklahoma, Rhode Island, Tennessee, Wisconsin, Arkansas, Colorado, Illinois, Nevada, New Jersey, New Mexico, Oregon, Utah, Vermont and Washington <http://www.ncsl.org/research/telecommunications-and-information-technology/employer-access-to-social-media-passwords-2013.aspx#2013>

² Florida, Georgia, Hawaii, Indiana, Maryland, Missouri, Mississippi, Wyoming, Virginia, West Virginia, Texas, Montana, New York, Oregon, and South Dakota <http://www.ncsl.org/research/telecommunications-and-information-technology/employer-access-to-social-media-passwords-2013.aspx#2015>

the Stored Communications Act³, which was enacted to ensure the confidentiality of electronic communications. We urge you to pass this legislation and protect the privacy and free speech rights of Connecticut employees.

³ 18 U.S.C. §§2701-11